



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
Director

Steven A. Dietrich
Regional Director

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
COUNTY OF BEDFORD
FOR
MONTVALE LIBRARY AND COMMUNITY CENTER WASTEWATER
TREATMENT PLANT**

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 62.1-44.15(8a) and (8d) by the Board to the County of Bedford, owner of the Montvale Library and Community Center Wastewater Treatment Plant, for the purpose of resolving certain violations of environmental law and/or regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 62.1-44.7 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "The Facility" means the sewage treatment facilities located at the Montvale Library and Community Center in Montvale, Bedford County, Virginia and owned by the County of Bedford and operated by the Bedford County Public Service Authority.

7. "The County" means the County of Bedford, a political sub-division of the Commonwealth of Virginia.
8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
9. "Regulations" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq* and 9 VAC 25-31-170, the VPDES General Permit Regulation for Domestic Sewage Discharges.
10. "Permit" or "General Permit" means a Virginia Pollution Discharge Elimination System permit to discharge into state waters issued by the Board pursuant to the Code of Virginia and the Regulations.

SECTION C: Findings of Fact and Conclusions of Law

1. The Montvale Elementary School building and Facility were owned and operated by the Bedford County School Board. Upon completion of a new school, the ownership was transferred to the Bedford County Board of Supervisors. The Permit to discharge to state waters for the Facility expired on September 1, 1996. A portion of the school was renovated and became the Montvale Library.
2. The Department issued a Letter of Noncompliance to the Bedford County Public Schools on December 27, 1996 for failing to renew the Permit and discharging to state waters without a permit. The Department requested that the Bedford County Public School Board respond to the letter by January 15, 1997. The School Board responded by letter dated January 8, 1997.
3. In late October of 1998, the County contacted DEQ to inquire about the status of the permit renewal for the Facility and DEQ informed the County that DEQ had not received an application for permit renewal for the Facility.
4. DEQ staff visited the Facility on November 9, 1998 and determined that the Facility would need to be upgraded before receiving a permit to discharge.
5. On February 11, 1999, the Department issued a Notice of Violation to the Bedford County Board of Supervisors for operating the Facility and discharging to state waters without a permit.
6. On March 16, 1999, the County, via their consultant submitted a registration statement for coverage under the General Permit for Domestic Sewage Discharges Less Than or Equal to 1,000 Gallons per Day. The statement indicated that the Facility would discharge 1,000 gallons or less a day, but a review of the submitted information indicated that the Facility had a design flow of 3,700 gallons per day. Consequently, the Department responded to the County on April 1, 1999, indicating the discrepancy in the registration statement.

7. The County submitted additional information in May of 2000. The County indicated that the Facility had been modified so that the maximum discharge would be less than 1,000 gallons a day.
8. On June 8, 2000, DEQ compliance staff visited the Facility to determine the operational status of the Facility. At that time, DEQ received documentation of water consumption at the site as further proof that the Facility was discharging less than 1,000 gallons a day. The site appeared to average less than 100 gallons per day of water consumption.
9. On June 20, 2000, the Department issued a Notice of Violation to the Bedford County Board of Supervisors for discharging to state waters without a permit. The Notice of Violation was sent certified mail and was signed for on June 21, 2000. The Department did not receive a response from the County.
10. On July 24, 2000, Department enforcement staff contacted Bedford County, via phone, regarding the Notice of Violation. At that time, it was determined that the Notice of Violation had not been received by Bedford County or the Bedford County Public Service Authority, the operator of the Facility.
11. On August 1, 2000, as a follow-up to the July 24th telephone call, the Bedford County Public Service Authority responded with a detailed letter outlining the steps taken to restrict/reduce the daily flow of the Facility.
12. On August 7, 2000, the Bedford County Public Service Authority submitted a corrected registration statement and supporting documentation demonstrating that flows from the Facility were 1,000 gallons per day or less.
13. The County received coverage, for discharges from the Facility, under the General Permit from the Department on August 17, 2000 and coverage under the General Permit expired on August 1, 2001. The Facility was required to monitor, via grab sample, once per year.
14. The Department sent a reminder letter to Bedford County on May 9, 2001 informing the County that should it wish to continue coverage under the General Permit, it must reapply before August 1, 2001, the expiration date of the General Permit coverage.
15. On May 18, 2004, Department compliance staff inspected the Facility to determine the operational status of the Facility. It was determined that the Facility was still operating and discharging to state waters, without a permit.
16. On June 7, 2004, the Department issued a Notice of Violation to Bedford County for failing to reapply for coverage under the General Permit and for discharging to state waters without a permit.

17. On June 18, 2004, the Department received a response letter from the County. The County stated that an administrative oversight by the County was the cause for failing to reapply for coverage under the General Permit. The County stated that the Facility had been operated, in the interim, within the requirements of the expired General Permit and the discharge had been well below the design capacity of the Facility. The County provided annual monitoring results to DEQ on December 21, 2004. This annual monitoring was required under the expired General Permit and supported the County's assertion of proper operation of the facility during the interim period.
18. The County stated that the Facility would be connected to public sewer by summer of 2005 and would like to continue to operate under the requirements of the expired permit.
19. On January 27, 2005, the County submitted a registration statement for coverage under the General Permit for Domestic Sewage Discharges Less Than or Equal to 1,000 Gallons per Day.
20. The County received coverage, for the Facility, under the General Permit from the Department on February 10, 2005 and coverage under the General Permit expires on August 1, 2006.
21. Section 62.1-44.5 of the Virginia Code and 9 VAC 25-31-50.A of the Regulations prohibit discharges to state waters without a permit.
22. 9 VAC 25-110-70 requires submission of an application for continuation of coverage under the General Permit. The application was due by August 1, 2001.
23. The County's discharge of wastewater from the Facility without a Permit is a violation of Section 62.1-44.5 of the Virginia Code and 9 VAC 25-31-50 of the Regulations
24. The County's failure to submit a complete registration statement by August 1, 2001 was a violation of 9 VAC 25-110-70.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §§62.1-44.15(8a) and (8d) orders the County, and the County agrees, to pay a civil charge of One Thousand Four Hundred Dollars (\$1,400.00) in settlement of violations noted herein. Payment shall be by check, certified check, money order, or cashier's check payable to the "Treasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150

Richmond, Virginia 23240

Either on a transmittal letter or as a notation on the check or money order, the County shall indicate that the payment is submitted pursuant to this Order. The County shall pay the civil charge shall in full no later than 30 days after the effective date of the Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of the County, for good cause shown by the County, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (a) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (b) seeking subsequent remediation of the Facility as may be authorized by law; or (c) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, the County admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. The County declares that it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.* and State Water Control Law, Va. Code § 62.1-44.2 *et seq.* and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing shall be construed as a waiver of the right to any administrative proceeding for, or judicial review of, any action taken by the Board to enforce this Order.
5. Failure by the County to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
6. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
7. The County shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The County shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The County

shall notify the WCRO Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth: (a) the reasons for the delay or noncompliance; (b) the projected duration of any such delay or noncompliance; (c) the measures taken and to be taken to prevent or minimize such delay or noncompliance; and (d) the timetable by which such measures will be implemented and the date full compliance will be achieved. Failure to so notify the WCRO Regional Director within twenty-four hours of learning of any condition above, which the County intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

8. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
9. This Order shall become effective upon execution by both the Director, or his designee, and the County. Notwithstanding the foregoing, the County agrees to be bound by any compliance date that precedes the effective date of this Order.
10. This Order shall continue in effect until the Director or the Board terminates the Order in his or its sole discretion upon 30 days written notice to the County. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the County from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
11. By the signature below, the County of Bedford voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 29th day of JUNE, 2005.

Steven A. Oetrich
For Robert G. Burnley, Director
Department of Environmental Quality

The County voluntarily agrees to the issuance of this Order.

By: Kathleen D. Guzi
Kathleen D. Guzi
Interim County Administrator, County of Bedford

Date: 07 March 2005

Approved As to Form
[Signature]

County Attorney

Page 7

Consent Order

The County of Bedford

Montvale Library and Community Center WWTP

Commonwealth of Virginia

City/County of Bedford

The foregoing document was signed and acknowledged before me this 7th day of March, 2005, by Kathleen D. Guzi, Interim County Administrator for the County of Bedford on behalf of the County.

Nicole McCabe
Notary Public

My commission expires: 9.30.04